

Docket 50-482

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DIRECT DIAL

## MEMORANDUM

To: Joseph Rutberg, Esq.  
Edwin Reis, Esq.  
Douglas Pickett /

DATE: April 4, 1991

From: Don Irwin

FILE: 36769.000005

### KG&E: Wolf Creek: Transmission Issues Resolution before KCC

Yesterday the Kansas Corporation Commission accepted a settlement of transmission issues reached between its staff, Kansas Gas and Electric Company and Kansas Power and Light Company. Copies of the settlement agreement and of a contemporaneous press release issued by the KCC are attached. I would appreciate your seeing that they are distributed to all concerned in anticipation of our meeting scheduled for 1:00 next Monday afternoon, April 8.

  
D.P.I.

Attachments: as stated

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PDR ADOCK 05000482  
G PDR

ADD 11

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

IN THE MATTER OF THE APPLICATION OF	)	
KANSAS CITY POWER & LIGHT COMPANY FOR	)	
APPROVAL OF ITS ACQUISITION OF ALL	)	
CLASSES OF THE CAPITAL STOCK OF KANSAS	)	Consolidated
GAS AND ELECTRIC, TO MERGE WITH KANSAS	)	Docket Nos.
GAS AND ELECTRIC, TO INCUR DEBT	)	172,745-U
OBLIGATIONS, AND TO TRANSFER KANSAS GAS	)	
AND ELECTRIC'S RETAIL ELECTRIC SERVICE	)	
AUTHORITY AND MUNICIPAL FRANCHISES	)	

IN THE MATTER OF THE JOINT APPLICATION	)	
OF THE KANSAS POWER AND LIGHT COMPANY,	)	
KCA CORPORATION, AND KANSAS GAS AND	)	
ELECTRIC COMPANY FOR APPROVAL OF THE	)	
ACQUISITION OF ALL CLASSES OF THE CAPITAL	)	
STOCK OF KANSAS GAS AND ELECTRIC COMPANY,	)	174,155-U
TO MERGE KANSAS GAS AND ELECTRIC COMPANY	)	
INTO KCA CORPORATION, TO INCUR DEBT	)	
OBLIGATIONS, AND TO TRANSFER KANSAS GAS	)	
AND ELECTRIC COMPANY'S RETAIL ELECTRIC	)	
SERVICE AUTHORITY AND MUNICIPAL FRANCHISES)	)	

STIPULATION AND AGREEMENT

On November 20, 1990, The Kansas Power and Light Company (KPL), KCA Corporation (KPL Sub), and Kansas Gas and Electric Company (KG&E) (hereinafter referred to collectively as "Joint Applicants" or "Companies") filed a Joint Application in the above-captioned dockets requesting all Commission authorizations necessary to consummate a proposed merger under which KG&E would be merged with and into KPL Sub. By Order dated February 15, 1991, the Commission established a procedural schedule for the pre-filing of testimony and exhibits and the holding of hearings. Pursuant to that schedule, both the Joint Applicants and the Staff of the Commission (Staff) filed testimony and exhibits addressing a number of issues, including (1) the effect of the merger on competition in the bulk power market and (2) the terms and conditions that should

be adopted to govern the use of the Joint Applicants' transmission facilities should the merger be approved.

Subsequent to the filing of this testimony, the Joint Applicants and Staff met on several occasions in an effort to discuss and, where possible, resolve their differences on these issues. As a result of these extensive discussions, the undersigned parties have reached the following stipulations and agreements which dispose of the competition and transmission-related issues raised in this case:

1. The tariffs filed by the merged company shall provide for wholesale firm and non-firm transmission service at cost based rates and on terms and conditions consistent with those applicable to other retail and wholesale services. Such tariffs shall be filed within sixty days of the closing of the merger.
2. The Joint Applicants commit to make a subsequent transmission rate filing pursuant to the Federal Power Act as soon as practicable but no later than two years following the closing of the merger. This filing will contain all cost data and operating parameters for the combined companies that are necessary to evaluate alternate firm transmission rates. Joint Applicants will propose and support in their transmission filing a single rate for all transactions requiring the joint use of the transmission facilities of both pre-merger Companies.
3. Once a customer and the Companies enter into agreement for a particular transaction, neither party may unilaterally request FERC to change the terms of that particular transaction

unless such contract itself explicitly sets forth the right to seek changes under Section 205 or 206.

4. Firm service shall be available for any length of time as short as one year, and as long as 30 years. Companies shall provide firm transmission service for less than one year, if needed to provide emergency, refueling or maintenance outage service. If the Companies provide firm transmission service to each other for a term of less than one year, such service will be offered to other wholesale customers on a non-discriminatory basis.

5. Available transmission capacity shall be estimated and annually announced in a manner designed to provide prospective customers the opportunity to evaluate the availability of transmission service from the Companies.

6. Whenever a request for transmission service requires the construction of a new facility, the Companies will determine the economic feasibility of the construction. The cost of any added transmission facility shall be charged to those customers who create the need for such facility. There shall be no presumption that a transmission customer requesting service is the customer creating the need for such facility. The determination of which customer(s) create the need for a new facility shall be made on a case-by-case basis.

7. Line losses shall be calculated based on methodologies no different from those used to calculate losses when the Companies use the transmission system to serve other customers receiving like services. Line losses for firm transmission service shall be

calculated on an average basis and line losses for non-firm service shall be calculated on an incremental basis.

8. Companies will use due diligence in completing construction of new facilities. Companies will seek expedited resolution of any dispute concerning the construction of new facilities, and will seek expedited review of any agreement for construction of new facilities.

9. Assignment shall be permitted. Where the assignee is making no change in services being rendered, no agreement of the Companies is necessary. Any assignee shall accept assignment only on the condition that it undertakes all obligations of the assignor.

10. All interruptions and curtailments of firm service shall be made pro rata across all firm retail, wholesale requirements and transmission loads affected by the interruption or curtailment.

11. The issue of transmission reciprocity shall be left open for resolution in FERC Docket No. EC91-2-000.

12. Upon issuance of a Commission order approving these principles, the Joint Applicants and the Commission will take appropriate action before FERC to assure that the principles set forth in this agreement and the Companies' proposed tariff, as modified consistent with the above principles, are implemented. Each party shall participate fully in the discussions required to develop the detailed tariff language necessary to implement the principles set forth above.

13. This Stipulation and Agreement will be made part of the record in KCC Docket No. 174,155-U.

14. Except as otherwise provided for herein, none of the signatories to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost determination or cost allocation underlying or allegedly underlying this Stipulation and Agreement.

15. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the signatories agree to waive, with respect to the issues resolved herein in Docket No. 174,155-U, their rights to cross-examine each other's witnesses, their rights to present oral argument and written briefs; their rights to the reading of the transcript by the Commission; and respective rights to judicial review.

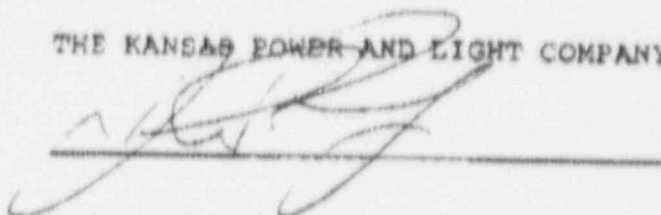
16. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not approve and adopt this Stipulation and Agreement in total, the Stipulation



and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

Respectfully submitted,

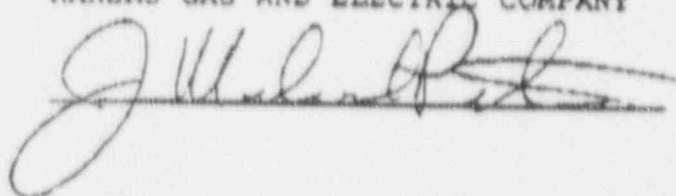
THE KANSAS POWER AND LIGHT COMPANY



STAFF OF THE KANSAS CORPORATION  
COMMISSION



KANSAS GAS AND ELECTRIC COMPANY



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# KCC News

Release No. 91-12

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Media contact: Sam Van Lierwen, Director of Public Affairs Office: (913) 271-8275 Home (913) 233-1503

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April 3, 1991/ For immediate release

## Commission approves KPL/KG&E transmission stipulation

The Kansas Corporation Commission today approved a stipulation on electric transmission issues reached by the KCC staff, KPL Gas Service and Kansas Gas & Electric.

The stipulation was presented to the commission March 25 during the first phase of hearings on the proposed merger. The first phase dealt with transmission issues. Phase two of the hearings, which will address all remaining issues, will begin April 11.

The transmission stipulation is intended to prevent KPL and KG&E from increasing monopoly control of the wholesale electric market through the proposed merger. The stipulation outlines conditions that should be adopted to govern the use of transmission facilities of the merged company should the merger ultimately be approved by the commission.

KCC staff said the commission's approval of the stipulation on electric transmission issues does not imply the commission will approve the merger.

The stipulation ensures that if the merger takes place, the merged company will provide firm (non-interruptible) and non-firm access to transmission facilities at cost based rates.

The stipulation will be the basis for the commission's position on transmission issues in the proceeding before the Federal Energy Regulatory Commission.

In addition to needing KCC approval, KPL and KG&E have filed an application for approval of their proposed merger with FERC, which has jurisdiction over wholesale transmission transactions.

The date set for filing testimony by the KCC in the FERC proceeding is May 1.

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